



10 APR 2007

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Emeryville, CA 94662

In re Application of  
RAPPUOLI, et al.  
U.S. Application No.: 10/527,672  
PCT No.: PCT/US03/29167  
International Filing Date: 15 September 2003  
Priority Date: 13 September 2002  
Attorney's Docket No.: 002441.00121  
For: GROUP B STREPTOCOCCUS VACCINE

DECISION

This decision is issued in response to the "Petition to Correct the Filing Date of the Application Submitted under 35 U.S.C. 371 in the United States Designated/Elected Office" filed 14 March 2007 which has been treated as a petition under 37 CFR 1.181 seeking a corrected filing receipt indicating 14 April 2006 as the filing date for the present application.

### **BACKGROUND**

On 11 March 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and a preliminary amendment.

On 14 September 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 18 April 2006, applicants filed a declaration executed by: Rino Rappuoli; John Telford; and Guido Grandi.

On 08 November 2006, the DO/EO/US mailed a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying 18 April 2006 as the date of receipt of the 35 U.S.C. 371 requirements. Subsequently, a filing receipt was mailed to applicants. This filing receipt identified the "filing date" as 18 April 2006.

On 14 March 2007, applicants filed the "Petition to Correct the Filing Date of the Application Submitted under 35 U.S.C. 371 in the United States Designated/Elected Office" considered herein, which requests that the filing date of 18 April 2006 be changed to 14 April 2006.

### DISCUSSION

The filing date set forth on the filing date corresponds with the date on which the 35 U.S.C. 371 requirements are completed, such date also being indicated on the Notification Of Acceptance (see MPEP section 1895.01). Here, the date on the Notification Of Acceptance and the filing receipt is 18 April 2006, the date on which the declaration completing the 35 U.S.C. 371 requirements was received at the USPTO. Applicants here seek to have this date changed to 14 April 2006, the date on which the declaration was deposited as first class mail with the USPTO. However, as clearly set forth in 37 CFR 1.8(a), a certification of mailing by first class mail is only used for determining whether a piece of correspondence has been timely submitted (as was done here); "[t]he actual date of receipt will be used for all other purposes." Had applicants desired the submission to be treated as having been filed on the date it was deposited with the USPS, then the "Express Mail" procedure set forth in 37 CFR 1.10 should have been followed.

Based on the above, the declaration by which applicants completed the 35 U.S.C. 371 requirements was properly accorded a filing date of 18 April 2006, the date it was received in the USPTO. Accordingly, the filing date on the filing receipt is correct.

### CONCLUSION

For the reasons above, applicants' request to change the filing date on the filing receipt is **DISMISSED** without prejudice.

Any reconsideration on the merits of these petition(s) must be filed within **TWO (2) MONTHS** from the mail date of this decision to file a response. No petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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